

## **CITY COUNCIL MINUTES**

**October 10, 2011**

### **REGULAR SESSION**

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, October 10, 2011 at 6:00 p.m. with Mayor Kirby presiding and City Clerk Joseph G.R. Labrie recording the minutes.

### **CALL TO ORDER**

### **ROLL CALL:**

**Council Members Present:** Bridget Powers, J. M. "Mike" Holmes, Keith Nesbitt, William W. Kirby

**Council Members Absent:** Kevin Hanley

**Staff Members Present:** City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Fire Chief Mark D'Ambrogi, Public Works Director Bernie Schroeder, Public Works Engineer Carie Huff, Associate Planner Lance Lowe, Building Inspector Jon May, Administrative Services Director Andy Heath and Police Chief John Ruffcorn.

By **MOTION** adjourn to a Closed Session under Government Code Section 54957.6:

**MOTION: Powers/ Nesbitt/ Unanimously approved by voice**

- (1) Conference with Labor Negotiators:  
(G.C. 54957.6)

Agency Designated Representative: Patrick Clark, Robert Richardson

Employee Group: Fire

### **REPORT OUT OF CLOSED SESSION**

No reportable action.

### **PLEDGE OF ALLEGIANCE**

### **MAYOR'S COMMENDATIONS/PROCLAMATIONS/ACKNOWLEDGEMENTS/ANNOUNCEMENTS**

Auburn Make-A-Wish Day

Forgotten Soldier Program Day

Tracey Di Vita and Justin Johnson, Veterans who served in Iraq and David James and Cliff Blankenship, Vietnam Veterans, spoke about how the Forgotten Solider program has helped them and how important the program is to the community.

## **AGENDA APPROVAL**

The agenda was approved as presented by consensus of the Council.

## **CONSENT CALENDAR**

### **1. Warrants**

By **RESOLUTION 11-109**, approve Warrants #78273 through 78456 totaling \$1,072,897.56.

### **2. Minutes**

Removed from the consent calendar. See 3a.

### **3. Auburn Municipal Airport UST Manway Repairs Project – Walton Engineering Notice of Completion**

By **RESOLUTION 11-110**, authorize the recording of a Notice of Completion for the work performed by Walton Engineering for the Auburn Municipal Airport UST Manway Repairs Project.

\*\*\*\*\* End of Consent Calendar \*\*\*\*\*

By **MOTION**, approve items 1 and 3 on the consent calendar.  
**MOTION: Powers/ Nesbitt/ Approved 4:0 (Hanley absent)**

### **3a. Minutes**

City Council Minutes of 8/22/2011 and 9/12/2011.

Council Member Holmes said the minutes from 9/12/2011 need to be revised to include the action taken on the Temporary Art Program. These minutes will be brought back before the Council at the next meeting for approval.

By **MOTION**, approve the minutes of 8/22/2011.  
**MOTION: Holmes/ Nesbitt/ Approved 4:0 (Hanley absent)**

### **4. Public Comment**

Council Member Holmes said he was contacted by an organization asking local councils and supervisor boards to place a sign stating "In God We Trust" in the meeting chambers. He said it will be bringing the issue to the Council at an upcoming meeting.

Council Member Nesbitt congratulated the Placer High Football Team on their victory over Bear River High School.

Mayor Kirby spoke about the Placer Athletic Department and encouraged people to attend local sporting events.

## **REPORTS**

### **5. City Council Committee Reports**

Council Member Nesbitt reported on the Placer County Transportation Planning Agency approving the Auburn Short Range Transit Plan, which was scaled back from the original plan. He reported that the Capital Corridor Train continues to have the best on time percentage in the Nation. He said he continues to lobby for the extra train to Auburn.

Council Member Holmes reported that the Chamber of Commerce is looking to support the Winter Olympics in 2022. He said the application needs to be completed by 2013. He reported that Placer County Water Agency will be requesting the Council's support on some local water issues they are currently facing. He reported on a study the Sierra Economic Development Corporation is conducting on "tax-leakage". He reported that the Internal Revenue Service is offering free tax preparation services in Auburn. He reported on the funding progress for the Auburn State Recreation area. He reported on the Auburn Chamber Government Affairs committee discussion regarding parking enforcement in Old Town and Downtown during the holidays.

Mayor Kirby reported that the Placer Nevada County Wastewater Authority is having discussions with state officials about 30 year bonds funding for regional sewer.

## **COUNCIL BUSINESS**

### **6. Introduction of LouAnn Lee, Celebration Church**

Fire Chief Mark D'Ambrogi introduced LouAnn Lee from Celebration Church. He said she contacted him about the Fire Department benefiting from some of the church's fundraising efforts.

LouAnn Lee said their church is focused on indentifying the needs in the community and finding ways to meet them. She said there will be a concert held December 12<sup>th</sup> at Celebration Community Fellowship at 7pm to raise funds to purchase defibrillators for the Fire Department.

7. **Appeal from Result of Election on Petition to Decertify Exclusively Recognized Employee Organization for Office and Administrative Support Bargaining Unit**

Finance Director Andy Heath presented this item. He said four members of the office of administrative support bargaining group filed an appeal of the tie vote that resulted in the recent State Mediation and Conciliation Service's conduct of an election held to decertify Local 39 as the exclusively recognized bargaining agent of the unit. He provided background to this election (information available in staff report in City Clerk's office). He said staff is recommending that Council hear and grant the appeal and order a new election in compliance with Article II, Section 6.0 (B) of the City's Employer Employee Relations Policy.

Council Member Nesbitt asked about the stipulation of only having an election once every 12 months.

City Attorney Michael Colantuono said there can only be one "valid" election in a 12 month period, so if this election is determined invalid another one could be held.

Mayor Kirby confirmed the basis of the appeal is because an employee who was no longer employed voted in the election. He then clarified the percentage of representation for a union to remain standing and what occurs in a tie.

City Attorney Michael Colantuono explained the process of decertifying a union and how the City's Employer-Employee policy addresses it.

Building Inspector Jon May, appellant, said the decertification vote was held September 19<sup>th</sup> resulting in a 7-7 tie. He said the appeal is based on one issue: an ineligible vote cast in the decertification election. He said as of the date of the election, there were only 13 members on their bargaining unit. He said the ineligible vote was a former employee who ceased working for the City on July 5<sup>th</sup>, 2011. He said the Employer-Employee Relations Policy specifically states employees entitled to vote in such election must have been employed during the pay period immediately prior to the vote date. He drew attention to exhibit E which lists each of the seven employees who voted to decertify the union.

Council Member Powers asked how a former employee would be allowed to vote.

City Attorney Michael Colantuono said that because of the "temporarily laid-off" verbiage in the contract with State Mediation and Conciliation Service, it was determined the former employee's "re-call" rights made her eligible to vote. He said there are two possible errors that occurred. He said it could be that the applicable standard should have been taken from the Employer-Employee Relations Policy. He also said the management staff considered the elimination of the last Administrative Assistant position in City Hall to be a permanent, rather than a temporary, layoff.

Mayor Kirby asked about possible legal issues involved in approving the appeal and allowing another election or determining that the union should be decertified at this meeting.

City Attorney Michael Colantuono explained the two separate recommendations coming from management staff and the Appellant. He said there are two issues with accepting the petition in lieu of another election. He said the petition is not a secret ballot, therefore ensuring no coercion was used in obtaining the votes. He said the second issue is that the union is asking for this petition to be disregarded and considered invalid.

Council Member Nesbitt said he feels the appellant did win the election. He said he feels this was a blatant attempt to manipulate the election results in the union's favor. He said he is in favor of awarding the election to the appellants but will defer to the recommendation of staff.

Mayor Kirby said he agrees that the appellants won the election. He said the best, fairest way is to go forward with a new election, and consider this an invalid election.

Council Member Holmes made the motion to approve "Alternative One" in the staff report.

City Attorney Michael Colantuono said a resolution could be brought back to Council at the next meeting to state the Council believes an illegal vote was cast and the affidavit stating how the votes were cast is valid, therefore disallowing the one invalid vote and recognizing the outcome.

Mayor Kirby said he agrees that this should be determined tonight, and that this was a blatant attempt to manipulate the election.

Council Member Powers asked what the next step is after the election is considering invalid.

City Attorney Michael Colantuono advised Local 39 stated in a letter that even entertaining the appeal violates their rights. He said the letter states they will be filing an unfair labor practices charge with the Public Employee Relations Board. He said this is a dispute within a bargaining unit. He said the Council needs to hear the appeal and make a decision while ensuring the process is democratic.

Council Member Powers asked what the process involves if the decision is to hold another vote.

Council comments followed regarding honoring the petition of votes.

By **MOTION**, create a resolution to be approved on the October 28<sup>th</sup> consent calendar granting the appeal determining that seven of thirteen eligible employees voted against continued representation by Local 39, and declare this unit to be unrepresented, inviting any party to seek recognition by demonstrating majority support of current unit members.

**MOTION: Holmes/ Nesbitt/ Approved 4:0 (Hanley absent)**

8. **Chamber Funding Request for New Phone App**

City Manager Robert Richardson presented this item. He said at the last meeting of the Economic Development Commission, the Chamber of Commerce approached the commission for funding for a phone app project.

Bruce Cosgrove, Auburn Chamber of Commerce, explained the use of the app for Auburn. He said it will be helpful to current local businesses and to recruit new businesses to the area. He said he plans to have it up and running by January. He said the cost to set up the app is \$2,500. He said there is a monthly fee based on the number of businesses participating. He said there is on-going staff time to manage the content of the app. He said the City's investment is only the one time cost of \$2,500. He said the app reflects "Think Auburn First".

Council Member Powers asked about the importance of technology in the future and how this app will fulfill that.

Tony Hazarian, President of the Auburn Chamber of Commerce, said there are comparable city apps currently available. He gave an example of the services and information that will be available on the app.

He said this app will brand Auburn as a place that has a vibrant business community. He spoke about the connections and benefits of social media with the app.

Council Member questions followed: (1) Economic Development Commission (EDC) support, (2) target audience, (3) business coupons on app, (4) emergency notifications, and (5) cost to businesses.

Tony Hazarian explained how the monthly costs would be covered by subscribing businesses.

George Preston, resident of Auburn, said he didn't see enough information or a business plan on this project for a decision to be made.

Council Member comments followed: (1) the extensive presentation given at the EDC, (2) technology use, (3) income generator for the Chamber, (4) possibility for emergency notifications, (5) app for travelers coming through Auburn, (6) lack of business plan, and (7) benefits of app for Auburn.

By **MOTION**, provide development/ start-up funding for the Chamber's new Phone App in the amount of \$2,500.

**MOTION: Nesbitt/ Powers/ Approved 4:0 (Hanley absent)**

9. **Masonic Lodge Tile Engraving at Central Square**

Public Works Director Bernie Schroeder presented this item. She introduced Ron Lawrence of the Masonic Lodge.

Ron Lawrence reviewed the history of the Masonic Organization, its presence in Auburn and the language for the proposed tile. He said the celebration of their 160<sup>th</sup> year in Auburn will take place on November 7<sup>th</sup>.

Council Member Holmes asked about the location of the tile, and if an existing engraved tile would have to be moved.

Ron Lawrence said that option was explored but due to costs was not feasible. He said the engraving will be on another tile close to the building.

By **MOTION**, approve the inscription for engraving of the granite tile paver as proposed by the Masons.

**MOTION: Powers/ Holmes/ Approved 4:0 (Hanley absent)**

10. **Palm Avenue Sidewalk and Bicycle Lane Project – Sidewalk Alternatives**

Public Works Engineer Carrie Huff presented this item. She said this is a follow up from the March 14<sup>th</sup> meeting when Council directed staff to review the possibility of separated sidewalks for this project. She explained the different alternatives being presented tonight (details available in staff report). She also reviewed the funding available.

Council Member questions followed: (1) expiration of funds, (2) staff recommendation, (3) guardrail, and (4) impact on the right-of-way property owner.

Earl Eisley, Eisley's Nursery on Nevada Street, said he didn't think this would be a route that school children would use. He expressed his concern about the ingress/egress to his property from Palm Avenue. He said the Public Works Department did not address his water lines in either plan. He also said "to exit the nursery is impossible and they said they would make it straight through" and he wants that documented. He said he wants to ensure they are addressed before the plan is finalized.

Council Member comments followed regarding: (1) increasing walkability in Auburn, (2) separated sidewalks, (3) visibility on Palm Avenue, (4) support for option 5, (5) matching costs, and (6) Earl Eisley's concerns.

By **MOTION**, select option 5 design alternative for the Palm Avenue Sidewalk and Bicycle Lane Project.

**MOTION: Nesbitt/ Holmes/ Approved 4:0 (Hanley absent)**

11. **Certified Local Government (CLG) Status for Auburn**

Council Member Holmes presented this item. He explained what the certification of a local government does for the community. He said it recognizes the effort to preserve the historic character of Auburn and makes the City eligible for grant funds through Preserve America. He said up to 60 cities and counties in California are CLG status. He said the training for the volunteers who would help in this program would be at no cost, held by the State Office of Historical Preservation.

Council questions followed regarding: (1) staff costs, (2) historical designation approval process, and (3) staff evaluation.

Council Member Holmes said the process to designate buildings in Auburn to the National Registry will still include the City Council. He clarified that the action being requested is to look further into the program, not to apply for it.

Michael Otten, resident of Auburn, spoke in favor of CLG status for Auburn. He read from Elk Grove's resolution approving this status for their city.

Donna Howell, resident of Auburn, spoke in favor of CLG status. She said this certification would provide an advantage for the historical community.

Council Member comments followed supporting gathering more information on the certification and how it can benefit Auburn.

By **MOTION**, approve moving forward with volunteer and staff assistance in seeking Certified Local Government status for the City of Auburn with the final staff analysis and program to be brought back to City Council for final approval.

**MOTION: Nesbitt/ Holmes/ Approved 4:0 (Hanley absent)**

## **ADJOURNMENT**

Mayor Kirby adjourned the meeting, without objection, to a meeting of the Auburn Urban Development Authority at 8:47 p.m.

  
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William W. Kirby, M.D., Mayor  
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Joseph G. R. Labrie, City Clerk